



Signed and Filed: June 20, 2024

A handwritten signature in black ink, reading "Dennis Montali", is positioned above the printed name.

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re) Bankruptcy Case No. 23-30564-DM
)
THE ROMAN CATHOLIC ARCHBISHOP) Chapter 11
OF SAN FRANCISCO,)
)
)
Debtor.)
)
)
)

**MEMORANDUM DECISION ON MOTION FOR ORDER REFERRING PARTIES
TO GLOBAL MEDIATION**

The court has considered the Debtor's *Motion for Entry of an Order Referring Parties to Global Mediation, Appointing Mediator and Granting Related Relief* (Dkt. 635), the Official Committee of Unsecured Creditors' *Joinder to Motion for Entry of an Order Referring Parties to Global Mediation, Appointing Mediator and Granting Related Relief* (Dkt. 641), the Insurers' *Objection to Debtor's Motion for Entry of an Order Referring Parties to Global Mediation, Appointing Mediator and Granting Related Relief* (Dkt. 668), and the various replies and other supporting papers.

1 With the consent of principal counsel on the record at the
2 hearing on June 13, 2024, the court thereafter spoke off the
3 record and in confidence with each of the parties' nominees for
4 mediator. Those discussions have convinced the court that
5 appointment of multiple mediators named below will advance the
6 interests of all parties in achieving a desired result in this
7 case, and their appointment and compensation are in the best
8 interests of the estate, the Debtor's mission, and all of its
9 intended beneficiaries, including the survivors of abuse.
10 Those mediators bring diverse skills and experience and have
11 impressed the court with a willingness to work together in a
12 cooperative and efficient manner in an attempt to achieve the
13 desired goal.

14 The motion will be granted in part and the objections
15 overruled in part. Debtor should prepare, serve and upload a
16 revised form of order referring this case to mediation and
17 appointing mediators consistent with this Memorandum Decision,
18 and making the following changes noted below to the versions of
19 the order previously submitted:

- 20 1. The order should eliminate references to Bankruptcy
21 Code Sections 327, 330 and 331 but specifically
22 authorize appointment of the mediators named below and
23 specifically incorporating the provisions regarding
24 Immunities as proposed by the Debtor and unopposed by
25 any party.
- 26 2. Christopher S. Sontchi, Timothy V.P. Gallagher and
27 Daniel J. Buckley are appointed as mediators.

1 3. The compensation of the mediators shall be paid in the
2 following percentages: 66-2/3% by the Debtor's estate
3 and 33-1/3% by the Insurers.

4 4. The following language, as proposed by Insurers in
5 Dkt. 668, should be included rather than Para. 9
6 proposed by Debtor in Dkt. 686:

7 Confidentiality. The provisions of Local
8 Rule 9047-1 pertaining to the
9 "Confidentiality" of the Bankruptcy Dispute
10 Resolution Program shall govern the
11 Mediation; provided, however, that if a
12 Mediation Party (a) seeks to rely on fact
13 and/or outcome of the Mediation to prove
14 "good faith" under 11 U.S.C. § 1129(a)(3) or
15 (b) puts at issue any good faith finding
16 concerning the Mediation made by the Court
17 (or a reviewing court) under 11 U.S.C. §
18 1129(a)(3) in any subsequent action
19 concerning insurance coverage, the rights of
20 other parties to seek discovery into,
21 concerning, and related to the Mediation is
22 preserved.

23 5. The following language, as proposed by the Debtor in
24 Dkt. 686, Para. 11, should be included, the court
25 rejecting the additional language proposed by the
26 Insurers in Dkt. 668, Para. 11, beginning at "and
27 (b)":
28

1 No Impairment of Privileges. Notwithstanding
2 any provision of this Order to the contrary,
3 nothing contained in this Order shall
4 require any Mediation Party to produce
5 documents or information that are subject to
6 attorney-client privilege, attorney work
7 product, or any other legally recognized
8 privilege.

9 Other provisions of the Debtor's most recent proposal
10 (Dkt. 686) should be repeated in the order; provided, however,
11 all counsel are encouraged to meet and confer regarding any
12 further needed and agreed upon changes to any other provision,
13 Mediation Procedures and Discovery as discussed on the record at
14 the June 13, 2024 hearing.

15 *** END OF MEMORANDUM DECISION ***
16
17
18
19
20
21
22
23
24
25
26
27
28

COURT SERVICE LIST

ECF Recipients